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ABSTRACT

The development of the relationship between nonpublic schools and state and federal governments has raised a number of questions regarding public aid to nonpublic education. This study focuses on one of these questions, the problem of state agencies' responsibility for the evaluation, governance, planning, and monitoring of programs providing public funds to nonpublic schools. The authors describe New Jersey's provision of compensatory education and handicapped services to nonpublic schools. They identify the problems involved, including the legal basis for state evaluation of the programs and the implementation, management, delivery, and effectiveness of the services. Data were gathered through classroom observation, surveys of 90 local educational agencies and 201 students, and interviews with 62 public and nonpublic administrators, 42 public school teachers, and 29 parents. The study results indicate, among other things, that the services are delivered to nonpublic students by countywide agencies, school district consortia, or individual districts, and that the students served have improved their achievement levels because of the services. A profile of the services provided to nonpublic schools by a typical district is included. (RW)

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NEW JERSEY'S NONPUBLIC PROGRAM: ISSUES AND PERSPECTIVES

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Paper presented as part of symposium entitled "Public Policy and the Nonpublic Sector" at the Annual Meeting of the American Educational Research Association, New York City, New York, March 19 - 23, 1982.

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New Jersey's Nonpublic Program: Issues and Perspectives

Background

As Daniel Patrick Moynihan has indicated, "there can be few areas of public policy as muddled as that of government aid to non-government schools and perhaps only an unwary person in public life will venture too far into the field " (Moynihan, 1979). Both practitioners and policy makers alike have tried to come to terms with the apparent contradictions in public policy in this area.

Over time, in fact, the Supreme Court has called for significant restraints to the allocation of public monies to the nonpublic sector while concurrently various branches and levels of government have either intensified these constraints or have devised methodologies to circumvent the Supreme Court's mandates. The underpinnings of the discussion stem from the U. S. Constitution, specifically from the First Amendment, i.e. the separation of Church and State.

Several contemporary issues promise to test the constitutional wall of separation between church and state in the area of public support and public regulation of nonpublic education, i.e.

- Federal unemployment compensation applied to parochial schools,
- Tuition tax credits for parents whose children attend nonpublic schools,
- Educational voucher plans that support attendance in nonpublic schools,
- State and federal aid to nonpublic schools generally, involving such things as curriculum materials, text books, student testing and transportation and other auxiliary services,
- Concern for monitoring, evaluation, and accountability of programs in the nonpublic sector funded by public sources of revenue, and
- Formula allocation of funds to nonpublic schools as required by Chapter II of the Education Consolidation and Improvement Act of 1981.

The fiscal, economic and political climate of the country at present, given the Reagan-Administration's blue-print for cutbacks to social service programs and to education programs, loom paramount to making evaluation and accountability a critical issue regardless of the source of dollars being allocated to the public sector or the nonpublic sector. However, in dealings with the accountability issue in the nonpublic sector, evaluation takes on a more convoluted and less direct role since the legislative mandates, both federal and state, which govern the allocation and disbursement of funds are generally ambiguously worded at best and carry with them no clear directive, code or regulation for program evaluation other than mere fiscal accountability in terms of expenditures.

Review of Nonpublic Education in America

Data provided by the National Center for Educational Statistics (NCES) for the 1978-79 program year indicated that there are 19,663 nonpublic schools servicing 5,084,297 students which consititutes 10.7 percent of the total enrollment of students nationwide. The nonpublic schools employ 272,664 teachers with the following average number of:

pupils per school	259
pupils per teacher	18.6
elementary students	22.5
secondary students	17.1
teachers per school	13.9

Of the 19,663 nonpublic schools, 79.9 percent of these schools are church affiliated. These overall statistics speak for themselves in terms of documenting the fact that almost 11 percent of the nation's student enrollment grades kindergarten through twelve are serviced by the private sector utilizing about six percent of the total amount expended for elementary and secondary education nationally.

Historically, nonpublic education has its roots in Colonial America where at that point there were no public schools and hence no clear separation between religious and secular authority over education. Clearly, this orientation was maintained until 1826 when New York State gave the city of New York's school aid to a nonsectarian group rather than to the church operated institutions. This movement catlyzed a turning point in terms of direct support to nonpublic schools. As late as 1890, it should be noted that 40 percent of all students enrolled in secondary schools were attending private schools.

Amidst the democratic postulate of educational opportunity for all the nation's school age children, the U. S. Supreme Court in 1925, in the decision Pierce v. Society of Sisters (286, U. S. 510) upheld the right of nonpublic schools to exist and concurrently the right of parents to send their children to those institutions.

Another landmark case was handed down in 1947, in the Emerson v. Board of Education (330, U. S. 1) decision by the U. S. Supreme Court which ruled that children attending nonpublic schools could participate in and benefit from services (in this case the service was busing) similar to those already benefiting public school children.

In subsequent years, significant cases have been heard before the U. S. Supreme Court concerning the constitutionality of using public funds to serve children in nonpublic or in church related schools. Decisions in these cases (while usually based on the first or fourteenth amendment) reinforced earlier rulings which, while denying direct financial aid to the nonpublic sector did affirm the rights of nonpublic students to benefit from certain federally supported services. Only in the case of the National Defense Education Act (NDEA) were funds directly provided for loans, not grants, to the nonpublic sector. In the case of NDEA Title III, these funds were earmarked only for equipment and minor remodeling.

The breakthrough legislation of course for the nonpublic sector was the passage of the Elementary and Secondary Education Act (ESEA) in 1965. Under the provisions of Title I

targeted to provide compensatory education to disadvantaged youngsters, nonpublic school students were also included in the impacted target group for service. Although the direction of the Title I programs falls under the auspices of the public school, various methods and models of delivering service to the nonpublic schools exist ranging from mobile classrooms to mobile instructional staff.

Title II of ESEA has also provided for the loan of books, audiovisual materials, slides, films, etc. to nonpublic schools to help improve learning and teaching. It is estimated that about 95 - 96 percent of all nonpublic school students benefited from services provided under ESEA Title II.

Of course there are many other federal programs which mandated that equitable services be provided to children who are enrolled in nonpublic schools. These programs included bilingual education, Indian education, emergency school aid and migrant education. Under the provision of these programs, services such as screening and placement, testing, counseling and guidance, special services for the handicapped and opportunity for career and vocational exploration were provided.

The philosophy of the federal government in terms of provisions of help to the nonpublic sector has been one of "child benefit" via the allocation of materials and services to students and teachers in the nonpublic schools. It has not been an easy task at the state and federal level to comply with the intended pedagogical philosophy of child benefit to nonpublic school students as embodied by legislation without conflicting with constitutional principals embodied by the first or fourteenth amendment. The Education Amendments of 1974, however, authorized that the U. S. Commissioner of Education could step in to provide for services to nonpublic school students where the authority of state law did not provide for such a provision.

Currently, with the advent of the Reagan Administration's Block Grant Legislation (the Education Consolidation and Improvement Act of 1981), some 31 diverse programs have been consolidated with the effect of placing the planning and spending of program dollars in the hands of local educational agencies with reduced reporting, evaluation and accountability at the state level. States are required by law to operationalize an allocation formula which distributes the funds provided by Chapter II to both the public and nonpublic schools in the state. Controversy has already arisen in many states as to the appropriate variables to be considered in determining equitable distribution of funds to the public and nonpublic schools in the states.

New findings, recently released by James Coleman of the University of Chicago, add more controversial data to the already heated discussions surrounding the quality and impact of nonpublic and public education in America. Coleman asserts that even after one allows for differences in family background that private schools do a better job than do public schools in educating their charges largely because nonpublic schools maintain better discipline and provide more challenging academic demands for their students.

Trends shared at the 78th annual meeting of the National Catholic Education Association, which was held in Manhattan in April 1981, also point toward a projected increase in the student population in church-related schools since parents are becoming increasingly frustrated with public education. At the same point in time, the potential of tuition-tax credits for families sending their children to private schools may have the effect of increasing government regulation of non-public institutions.

Tuition tax credits, voucher plans, and the expenditure of federal dollars for services to benefit nonpublic students raises the serious issues of governance, accountability and program evaluation as well as the related policy implications that new rules and regulations would have.

To summarize, the evolution of nonpublic education in America coupled with the current national educational climate, policy, and fiscal spending for education raise the frequency and tenacity with which the following questions about private schools are asked:

- Are private schools growing at the expense of public schools?
- Do private schools provide and represent an essential factor of parental choice for the education of their children?
- Are private schools a barrier to equal educational opportunity and access?
- To what extent have government overlays in terms of administrative accountability jeopardized the independence of nonpublic schools?
- What is (can be, should be) the extent of program evaluation, governance, planning, monitoring and fiscal accountability responsibilities of government on programs provided to the nonpublic sector with public funds?
- What would the impact be of increased government subsidies to private schools on public schools?

Independent of the global issues surrounding nonpublic education, whether as Coleman asserts that nonpublic high schools provide a better educational base than do public schools coupled with public sentiment and federal administration endorsement of the viability of tuition tax credits and educational vouchers, the U. S. Department of Education still must provide for and develop programs in keeping with the philosophy of "child benefit" for nonpublic school students. The benefits of federal programs must be made available to students in both the public and private sector. The allocation of federal funds to the states is premised on a provision of services to nonpublic school students prior to release of federal monies.

New Jersey: The Genesis of a Study

The New Jersey study which will be described below touches only on one of the policy issues described prevously, that of the extent to which program evaluation, governance, planning and monitoring responsibilities of the state agency or of the government can be superimposed on the nonpublic sector if the nonpublic sector accepts public monies.

Growing concern was manifest in 1979 under the then current leadership of the Operations, Research and Evaluation Division in New Jersey that all programs administered by the state agency, whether state or federally funded, must be evaluated not only in terms of student and program outcomes but also in terms of fiscal accountability and cost-effectiveness. One of the programs which had not been fully evaluated or indeed examined to any great detail was the Auxiliary Services to Nonpublic School Students Program pursuant to Chapters 192 and 193, P. L. 1977.

Since 1977, children attending nonpublic schools in New Jersey have been entitled to receive state funded auxiliary and supplementary services comparable to those offered to public school students under New Jersey Statutes Annotated (NJSA) Chapters 192 and 193. These services are described below:

Chapter 192, Laws of 1977, (NJSA 18A:46A–1 et. seq), provides auxiliary services for pupils enrolled in nonpublic schools. These auxiliary services consist of compensatory education in reading and math, supplementary instruction for students with identified special needs, and support services for children with limited English-speaking ability (Engish as a Second Language), and home instruction for those who are eligible.

Chapter 193, Laws of 1977 (NJSA 18A:46-6, 8, 19.1 et seq), provides for the identification, examination and classification of potentially handicapped pupils attending nonpublic schools within the state. The act further provides the services of a certified speech correctionist for each nonpublic school pupil classified as having an articulation disorder requiring such services.

The Nonpublic Student Auxiliary Services Program receives well over $10 million dollars annually from the state budget.

The basic question generic to the issue of "evaluating" the outcomes of P.L. 192-193, if one can use that term "evaluate", is the degree to which program evaluation, governance, planning, monitoring and fiscal accountability can be imposed on the private sector by the state agency if the private sector schools receive public funds.

Evaluation Issues Identified

I. Program Evaluation

The one major problem with program evaluation under the state law governing nonpublic services is the lack of reference to program evaluation requirements in either the law itself or in the interpretive guideline materials prepared by the State Department:

Problem with lack of reference to program evaluation in law

"At the close of the school year, the district board of education shall submit to the Commissioner a report describing the classification and corrective services provided by the district board of education pursuant to state law. The report shall be completed in a manner prescribed by the Commissioner and shall include but not be limited to, such information as the classification and corrective services provided, numbers of nonpublic school pupils served, frequently and/or amount of the services and facilities utilized" (New Jersey Public Education Act of 1975, Chapter 212, Laws of 1975).

II. Implementation and Management of Services

There are several problems or concerns raised by provisions in the state law governing nonpublic regarding the implementation and management of services:

Problems with implementation and management of services

- *Services must be provided in a non-sectarian facility (i.e., students must receive services away from their usual environment);*
- *Services must be arranged for and managed by the public school and may not include use of any staff employed by the nonpublic facility; and,*
- *Services may be arranged either through contracting, hiring of staff by the public school, or through cooperatives among more than one public school district.*

III. Delivery Strategies for Services

Services may be delivered in a variety of ways, depending upon such factors as number of pupils, kinds of services, location of facilities, personnel available, logistics, funds available, etc. Some of these ways include the following:

Delivery Strategies

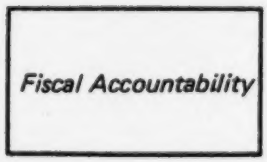
- *Districts themselves providing services to all eligible pupils for whom these districts are responsible;*
- *Two or more districts cooperating to provide services to all eligible pupils attending nonpublic schools located within their respective*

districts whether or not the pupils actually reside in the same district where the nonpublic school they attend is located;

- *Districts providing services through a county educational services commission;*
- *Districts contracting with an educational improvement center to provide services; and,*
- *Districts contracting with a non-sectarian private school to provide services.*

IV. Fiscal Accountability

Since no funds can be provided directly to the nonpublic school districts, funds are managed by the public schools. Fiscal issues such as the following arise:



- *Administrative costs of six percent are incurred by each public school for management of accounts for nonpublic school;*
- *Monthly billing cycle and cycle of expenditures;*
- *Audit trails of various methods for which services are delivered, are contracted for, and are subcontracted for; and,*
- *Costs of purchase of mobile units so that services can be delivered in non-secetarian site.*

It was initially intended that the evaluation study provide data to answer the following questions:

- Have students benefited as a result of the program?
- Is the program cost-effective?
- What is the cost-benefit of the program?
- How are the appropriated funds spent by each categorical area of service specified under P. L. 192 - 193?
- How much instructional time does each student receive in each area of service?
- Which models are the most cost-effective in terms of their operations, delivery of services and in terms of student impact?

The data generated by the study was also viewed to be a potential catalyst for possible change in the state law to:

- Place the burden of responsibility for providing information to the state agency on the nonpublic school where the student is enrolled rather than on the public school agency which handles the funding aspect;

- Clearly define what the parameter of state governance was on P. L. 192 and 193 regarding the direct reporting and/or solicitation of information about student achievement, programs and utilization of funds from the nonpublic schools;

- Allow for the provision of services to students on the nonpublic site (precedent was set by the Pearl v. Harris case on April 18, 1980 by the U. S. District Court for the Southern District of New York).

Purpose of Study and Methodology at the State Level

Political considerations and a cautious approach by new leadership in the state agency significantly curtailed the ambitious evaluation plans for the study of nonpublic services pursuant to P. L. 192 - 193 which were outlined in the previous section.

Fiscal issues in terms of expenditure of funds and the flow of funds were not dealt with. The scope of the study was reconfigured to examine the state law and the implementation of the state law. Another focus of the study was to examine the various service delivery systems available and to determine their effectiveness. It was anticipated that exemplary programs would lead to the development of a model(s) which could be disseminated statewide and lead to the overall improvement of the quality of the state program.

A state evalution team (2 evaluators and a consultant familiar with nonpublic education) designed and conducted the study. Data were obtained from the following sources: seven on-site administrator interviews; nine instructional observations and from surveys of seven public administrators, 48 nonpublic administrators, 42 public school teachers and 29 parents. Mailed Administrator Questionnaires were received from 90 local educational agencies. Student achievement data was analyzed for 201 students.

Findings

The findings of this limited in scope study are very encouraging and are presented below as they appear in the executive summary of the report entitled "Study of Services to Nonpublic Students Pursuant to Chapters 192 and 193, P. L. 1977" (Herr, 1981).

Administrator Interviews

The eight administrators interviewed described the structure and management of the range of services their agencies provided. The most outstanding characteristics of the more effective programs were strong administrative leadership coupled with continuous communications between the administrators and staffs of the service agencies and the nonpublic schools. The administrators interviewed were unanimous in considering the major strength of the program to be the provision of these special services to children who would not receive them otherwise.

Organization of Delivery Systems

Three different organizational systems were used by districts. First, the county-wide agency delivered services to eligible students from a number of districts in the county. Next were consortiums of districts who joined together to either have one district provide all of the services, or to have different districts each provide services in one area. Lastly, local districts provided whatever services the eligible students required.

Classroom Observations

As part of the on-site visitations, nine functioning classrooms were observed. Most of ongoing instruction was in compensatory education and was individualized. Speech correction was observed in small group lessons, with each child having the opportunity to respond individually. It was obvious in all of the observations that the teachers and students had exceptionally good rapport and apparently were highly motivated in the learning process.

Administrators, Teachers and Parents Responses to Survey Forms

In response to an almost identical rating scale, public administrators, public teachers and parents were very positive about most aspects of the programs. The overall quality of the program was rated as "excellent" or "good" by all (100%) of the public educaitonal administrators, by 80% of the nonpublic administrators, by 84% of the teachers and by 69% of the parents. Twenty-eight percent of these parents selected the satisfactory rating.

Student Achievement

The effects of the compensatory education services on students were examined for 201 students for whom data were available. An analysis of variance revealed that these students made significant gains in communication and computation at all grade levels. In other words, the additional instruction provided under Chapter 192 enabled these students to achieve more than they would have without these services, or by normal growth and maturation.

Program Profiles

Data which was obtained from the 73 completed Chief School Administrator Questionnaires provided the basis for the development of profiles of a 'typical' district for each of the funded areas which is presented in the accompanying Figure I (see page 10).

New Jersey's Experience: What has been Learned?

Both from the limited scope and size of the study which was conducted, it should be noted that the information was obtained from selected and sampled districts and that the programs involved in the study were successful in fulfilling their mission and providing program services. The overall positive findings were based on a relatively small number of programs. These programs largely operational through countywide educational service commissions should be viewed as a target for other districts rather than a profile of current state practice in New Jersey.

FIGURE I

TYPICAL PROGRAM PROFILE

Service	Total Number of Students	Average Class Size	Time/Week	Total Instructional Time Per Year	Staffing	Time spent for students to walk to/ from mobile classroom	Services Provided by	Instructional Setting
Compensatory Education	25	4 - 5	45 Minutes - twice a week	50 hours	2 Teachers 1 Para-professional	8 Minutes	Contractor	Mobile Classroom
English as a Second Language (ESL)	9	2	30 Minutes - twice a week	45 hours	1 Teacher 1 Para-professional	6 Minutes	Contractor	Mobile Classroom
Supplementary Instruction	6	2	40 Minutes - twice a week	37 hours	1 Teacher	10 Minutes	Contractor (Used by 2 out of 3 districts)	Mobile Classroom
Home Instruction	3 Districts			45 hours	3 Teachers		Local districts almost always provided these services directly	
Examination and Classification of Potentially Handicapped Children	8					10 Minutes	More than half of districts provided these services directly	Public School Setting
Speech Correction	18	2 - 3	30 Minutes - twice a week	33 hours	1 Teacher 1 Para-professional	10 Minutes	Instruction provided by a contractor in more than half the districts	Mobile Classroom

Without a doubt, the study has proven to be helpful in answering some of the basic evaluation questions focused around the state's law to provide compensatory programs to nonpublic school students; however, a large measure of the work is still undone. It is hoped that present political considerations and the current educational climate in the state will not dampen the need and the necessity to ask and seek answers to those hard evaluation issues. Should it not be the role of the evaluation to present the data for decision-making independent of the prevailing political context, if education and the public are to be served? Cannot negative data as well as positive data be utilized to enhance a program? It is hoped that the following questions which have been left unanswered will be answered:

- Is the program cost-effective?
- What is the cost-benefit of the program?
- How are the appropriated funds spent by each categorical area?

The current climate in which public dollars allocated to education, be it public or private, are shrinking will undoubtly press for resolutions of the cost and accounting type.

At some point in time, New Jersey may be in a position to seek legislative changes for P. L. 192 - 193 which would 1) place the burden of responsibility for providing information to the state agency on the nonpublic school where the student is enrolled rather than on the public school, 2) clearly define the parameters of state governance regarding the direct reporting and/or solicitation of information about student achievement programs and utilization of funds from the nonpublic schools, and 3) allow for the provision of services to students on the nonpublic site.

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